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Letter dated 7 March 2007 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Committee

On instructions from my Government, I have the honour to transmit to you herewith the first report of the Principality of Andorra to the Security Council Committee established pursuant to resolution 1737 (2006) (see annex).

My Government will be happy to provide the Committee with such additional information as it considers necessary.

I should be grateful if you would arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Julian **Vila-Coma**
Ambassador
Permanent Representative

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Annex to the letter dated 7 March 2007 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Committee

[Original: French]

Report of Andorra on the steps taken to effectively implement the provisions of resolution 1737 (2006)*

Introduction

The Principality of Andorra has a long tradition of peace. It has always expressed its support at the international level for non-proliferation of nuclear, chemical and biological weapons and has striven for international peace and security.

As a defender of peace, and consistent with a period of more than seven centuries during which weapons and war have been absent from its national life, Andorra has never permitted any enrichment-related, reprocessing or heavy water-related activities, or the development of nuclear weapon delivery systems in its territory. The Principality is therefore determined to participate in efforts made at the international level by numerous States to keep the world free of nuclear weapons and of any related activities.

On 23 December 2006, the Security Council adopted resolution 1737 (2006) calling on Iran to take the steps required by the Board of Governors of the International Atomic Energy Agency (IAEA), which are essential to building confidence in the exclusively peaceful purpose of its nuclear programme and to resolve outstanding questions.

Paragraph 19 of that resolution urges States to submit to the Committee established in accordance with rule 28 of the Council's provisional rules of procedure initial reports on the internal steps they have taken with a view to implementing this resolution.

Andorra therefore submits the following report, which reflects the Principality's willingness to cooperate with the United Nations in its continuing efforts to prevent the proliferation of all weapons of mass destruction, as has often been reaffirmed by the Head of Government, Mr. Albert Pintat, and the Minister for Foreign Affairs, Mr. Juli Minoves.

This report is also based on close cooperation among the relevant Government departments, namely, the Department of Transport and Energy, the Department of Industrial Security of the Ministry of Economic Affairs, the Customs Department, the Department of Health of the Ministry of Health, Social Welfare and Family, the Immigration Department, the Police Service and the Ministry of Foreign Affairs.

We remain, of course, fully at the disposal of the Committee established pursuant to resolution 1737 (2006) and will be happy to provide any additional information it may require, and we are open to all its recommendations.

* Annexes may be consulted at the Secretariat upon request.

I

The Principality of Andorra has never allowed the development in its territory of any activity or industry related to the use of nuclear products, enrichment, reprocessing or heavy water, or the development of nuclear weapon delivery systems. Andorra does not produce, develop, market, buy, possess, use or have stocks of nuclear weapons, their delivery systems, and does not possess obsolete nuclear weapons and does not permit any enrichment-related, reprocessing or heavy water-related activities, or the development of nuclear weapon delivery systems.

The Principality of Andorra nevertheless has laws and regulations to prevent the establishment in Andorra of industries related to the use of nuclear products and sanction any violation of these laws and regulations and of relevant international norms.

On 21 November 1995, the Consell General (Andorran Parliament) approved the country's accession to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Since that date, the Government has been studying all treaties which relate to combating the proliferation of nuclear, chemical and biological weapons, which constitute a threat to international peace and security.

Under that Treaty, nuclear-weapon Member States undertake not to transfer nuclear weapons or control over such weapons directly or indirectly and not to assist, encourage, or induce any non-nuclear-weapon State to manufacture or acquire such weapons. Moreover, non-nuclear-weapon States such as Andorra undertake not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices and not to seek any assistance in the manufacture of such weapons or devices.

Each non-nuclear-weapon State also undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency for the exclusive purpose of verification of the fulfilment of its obligations assumed under the Treaty and preventing diversion of nuclear energy from peaceful uses. This agreement includes a wide range of technical measures whereby the Agency can independently verify the accuracy of declarations made by States regarding nuclear materials and activities.

The Principality of Andorra signed at Vienna with the Agency the agreement on the application of safeguards in the framework of the Nuclear Non-Proliferation Treaty, and its Additional Protocol and Small Quantities Protocol.

On 24 September 1996, Andorra also signed the Comprehensive Nuclear Test Ban Treaty and ratified it on 12 July 2006. Andorra also deposited its instrument of accession to the Convention on Physical Protection of Nuclear Material on 27 June 2006 and signed the International Convention for the Suppression of Acts of Nuclear Terrorism on 11 May 2006.

Furthermore, pursuant to General Assembly resolution 58/28, Andorra reiterates each year that it has no army and no military spending, and confirms that it has never exported or imported any material falling within the seven categories defined in the United Nations Register of Conventional Arms (see annex 1, for the two latest "nil declarations" sent to the Department for Disarmament Affairs of the United Nations).

Andorra also signed The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) on 5 April 2005. Under the Code, the first multilateral instrument for preventing ballistic missile proliferation, States undertake to exercise maximum possible restraint in the development, testing and deployment of ballistic missiles, including, where possible, to reduce national holdings of such missiles and not to contribute to their proliferation. The Code also formulates a strong political commitment whereby States resolve to implement and comply with transparency measures to issue: an annual declaration on ballistic missile and space launch vehicle programmes; and the exchange pre-launch notifications on their ballistic missile and space launch vehicle launches and test flights. In that regard, Andorra makes a "nil-declaration" every year (see annex 2).

Lastly, with regard to its politico-military commitments to the Organization for Security and Cooperation in Europe (OSCE), Andorra submits a "Nil-report" to the annual Conflict Prevention Centre questionnaire on the import and export of conventional arms (annex 3).

It is important to note that all the international conventions or treaties adopted by Andorra become part of domestic law upon their entry into force. Article 3 of the Constitution of Andorra provides that international treaties and agreements take effect in the country's legal system from the moment of their publication in the Official Gazette of the Principality of Andorra and cannot be amended or repealed by law. It follows that Andorra fulfils its international obligations under treaties on the non-proliferation of nuclear and chemical weapons without having to adopt specific measures in its domestic legislation. International treaties adopted by Andorra are therefore second only to the Constitution, in terms of the hierarchy of norms.

As regards domestic legislation, the Andorran Parliament adopted on 21 February 2005 the text of a new Penal Code, which came into force on 23 September 2005. The new Penal Code takes into account all the penal provisions set forth in the counter-terrorism conventions and other treaties currently in force and in particular strengthens criminal penalties in the context of efforts to combat the proliferation of nuclear weapons.

The new Penal Code includes two chapters dealing with nuclear energy and major damage. They contain a total of nine articles, which penalize:

- Illicit possession of nuclear material or radioactive products;
- Import, export, transport or stockpiling;
- Exposure of individuals to ionizing radiation;
- Disruption of establishments, facilities or services where radioactive products or nuclear material may be used;
- Loss or emission of radiation through negligence;
- Damage caused by negligence, placement or shipping of explosives;
- As for chemicals or biological products, non-compliance with safety standards presenting a real risk of danger to persons is likewise criminalized.

Article 265 of the new Penal Code also prohibits the production, development, marketing, transfer or stockpiling of weapons of war or their munitions, which

activities are punishable by four to ten years' imprisonment. Attempts to commit such offences are also punishable. Possession of more than one such weapon or munition, regardless of model or category, even when disassembled, is considered as stockpiling of weapons of war. Possession of a single weapon of war is punishable as possession of a prohibited firearm. Marketing includes acquisition, sale, import or export.

Any weapon so defined in the relevant statutory provisions is considered to be a weapon of war. Article 2 of the Decree of 3 July 1989 on the possession, use and circulation of weapons prohibits the production, import, circulation, possession, use, purchase, sale and advertising of certain weapons, including weapons of war (weapons, vehicles, equipment and materials of all types and their basic parts, as well as munitions, designed or intended for warfare or for exclusively military uses).

As regards the financing of weapons production activities, and in the context of the campaign against terrorist groups, article 336 (2) of the new Penal Code criminalizes the provision and receipt of money and in general any other equally serious form of economic or other cooperation, assistance or mediation in the activities of a terrorist group.

Article 262 of the new Penal Code criminalizes violations of safety standards posing a specific threat to persons. An individual who, when producing, handling, transporting, possessing or marketing materials, residues, devices, organisms or hazardous substances, violates established safety standards and endangers the life or health of persons is liable to up to two years' imprisonment.

Although Andorra does not produce or purchase nuclear weapons or products, the Sensitive Materials Control Act and the Act on Industrial Safety and Quality would be applicable to the handling by natural or legal persons of nuclear products. In promulgating the Act on Industrial Safety and Quality of 22 June 2000, Andorran legislators endeavoured to close any legal loopholes which might allow a natural or legal person to handle such products in total secrecy.

That Act seeks to prevent and limit risks and establish effective safeguards against incidents or accidents which may occur during an industrial activity and which could endanger the life of persons or cause damage to facilities. Safety procedures must be followed at all stages of industrial activity, from production to use, including the storage and transport of industrial products, in accordance with article 6 of the Act.

This general Act is complemented by regulations relating to the safety provisions of the Act. The Regulation concerning explosive substances of 4 May 1976, amended a number of times, most recently on 5 October 1995, establishes the legal framework governing the conservation, sale, import and use of explosive substances employed in Andorra for the construction of tunnels and buildings and avalanche provocation.

With regard to the physical protection of facilities and materials, the Act on Industrial Safety and Quality contains provisions for the prevention and limitation of risks such as fire, explosion or any other event that may cause burns. Industrial facilities and products, as well as their use and functioning, must meet the requirements set out in the Act or be subject to a fine or temporary or permanent closure of the facility.

The safety of facilities is monitored by the competent ministry, which may itself or through monitoring bodies, at the request of any interested individual or ex officio, undertake an inspection at any time to ensure that safety procedures are being followed (article 11 of the Act). These monitoring bodies, also called inspection and monitoring enterprises, are public or private entities possessing juridical personality and are required to have the human and material resources, as well as the essential impartiality, for such activities.

Those responsible for industrial activities are required to submit for the Register of Industrial Activities maintained in the Department of Commerce of the Government of Andorra information concerning the type of activities conducted and their location, in order to facilitate the provision of information about industrial activity to the public.

Non-compliance with that obligation is considered as negligence and punished by a fine of 600 euros. Refusal to cooperate with experts or inspectors from the Government or the monitoring bodies is likewise considered as negligence.

The Act lists acts or omissions which could pose a risk to the facilities or materials contained therein and which are considered as serious negligence and are punished by a fine of between 600 and 6,000 euros: firstly, the production, import, sale, transport or use of products and elements in violation of industrial safety standards (article 23a), or the start-up of facilities without due authorization, if such authorization is required pursuant to the relevant regulations (article 23b); secondly, concealment of information or provision of false information for the Register of Activities or repeated and undue delays in providing information (article 23c), failure to provide the Government with information requested (article 23d) and issuance of certificates or reports containing false information (article 23e); and, lastly, inadequate maintenance of facilities which could pose a risk to persons (article 23i).

Pursuant to article 24 of the Act, if any of the acts described above expose persons to very serious and imminent danger or cause serious injury, they are considered as very serious offences punished by a fine of between 6,000 and 60,000 euros.

The Sensitive Materials Control Act defines all the requirements which must be fulfilled by all those who work with goods considered to be sensitive, and their responsibilities, including with regard to all commercial activities: production, import, distribution, retailing, transport or storage. Persons involved in such activities must have a licence to work with sensitive goods. Articles 3 and 4 specify who may apply for such a licence and indicate the information to be given in the licence, for example the list of facilities authorized to handle sensitive goods. Such activities must be documented in a record of invoices issued and received as well as inventory lists, in order to ensure the greatest possible transparency in all the above-mentioned operations, as set out in articles 5 and 6 of the Act.

According to article 2 of the Act, all persons working with sensitive goods, defined as natural or legal persons involved in operations such as production, processing, import, export, distribution, commerce, transport and storage of such goods must at the request of the Finance Ministry submit the records and all supporting documentation regarding those records and any economic operations transacted with third parties. The operator must also retain all such documents for a

period of five years (article 8). Non-compliance with any of the above obligations is penalized by a fine, without prejudice to possible criminal penalties in certain cases. The fine varies from 3,000 euros for less serious offences to 300,000 euros for the most serious offences.

Lastly, TEDAX (Techniciens pour le désamorçage des engins explosifs — explosive ordnance disposal (EOD) experts), a branch of the Andorran police, is the competent unit for matters involving explosives. Some members of TEDAX have also received specialized NR/NBC (nuclear radiation and nuclear, bacteriological and chemical toxins) training in the disarming and neutralization of nuclear, biological and chemical products or weapons and the preparation of contingency plans for such incidents. The remaining members of the unit should receive the same training in 2006.

As for related materials or products, Andorran legislation provides for appropriate measures to monitor the entry into the Principality of such items, to track them and to take appropriate physical protection measures.

The Sensitive Materials Control Act, the aim of which is to put a stop to all illicit activities in the area of sensitive materials, provides for appropriate monitoring so that acts which constitute misdemeanours or serious offences under customs law may at the same time be verified and investigated beforehand by the Administration, and be penalized a posteriori pursuant to the appropriate rules of law.

To that end, the Act defines as "sensitive" any materials which may constitute a danger to health or public safety or may be used in fraudulent international or black market transactions.

The same instrument also defines all the conditions and obligations to be complied with by a person wishing to engage in any activity involving goods considered as sensitive, as well as possible commercial activities which involve dealing in sensitive goods, such as manufacturing, import, distribution, retailing, transportation or storage of such goods.

Persons engaging in such activities are required to have an official authorization to handle sensitive goods, and to record such transactions in a register of invoices issued or received and of stocks, which is essential in order to give the greatest possible transparency to all the aforementioned operations.

Lastly, the Sensitive Materials Control Act defines and regulates offences and administrative penalties, and introduces an additional provision which establishes the concept of the "economic group" in order to cover all situations which may relate to trafficking or trading in sensitive goods.

The enabling regulations for the Act develop and clarify the systems used for monitoring sensitive goods.

To enable the administration to verify transactions relating to sensitive goods, the regulations make it mandatory to have a licence and to record all such transactions.

The regulations provide for modalities for the issue of operating licences and define transactions relating to activities involving trading in sensitive goods subject to monitoring, detailing the information to be included in registers and providing the

basis for operators wishing to use a computerized register. The Customs Department of the Ministry of Finance is responsible for the application of the rules set out in the legislation and controls and registers all the material or products imported into Andorra.

According to the records of the Customs Department, no nuclear weapon has ever been imported into the country.

With regard to nuclear products or devices or materials which may contain such products, the Andorran Customs Department has provided information which shows that only a few negligible quantities of certain products of this type have been imported into Andorra (annex 5 contains a summary table on all those items). The Customs Department further informs us that in 2006 there were no imports or exports between Andorra and Iran.

Andorra's location in the middle of the Pyrenees makes maritime access impossible. Furthermore, the geographical features of Andorra make it impossible for the country to have a public or private airport or airfield where aircraft can land. Andorra has a heliport and helipad owned by private enterprises. Any helicopter wishing to fly over Andorran airspace must obtain specific authorization from the Department of Transport and Energy of the Ministry of Economic Affairs indicating the date, hour, type of mission, flight path and takeoff and landing points in accordance with the 2 April 1992 Decree concerning the use of helicopters in the Principality of Andorra. For international flights, the application must include a flight plan, which the Government communicates to the countries to be flown over and the final destination. All incoming international helicopter flights are subject to customs and police controls. However, pursuant to the provisions of the Convention on International Civil Aviation, article 33 of the Air Navigation Act of 9 November 2000 provides that aircraft must have on board a set of documents issued by the relevant authority. Passenger helicopters are required to have a passenger manifest, indicating the places of embarkation and destination; goods helicopters must have a goods manifest and goods declaration.

The usual access to Andorra is by land, through only two entry points: the French-Andorran border in the north and the Spanish-Andorran in the south. Consequently, goods imported into Andorra have to pass through the border checkpoints of our neighbouring countries.

Under the Industrial Safety and Quality Act of 22 June 2000, the Government may authorize the establishment of industrial activities, the inspection of premises and provide for the punishment of offences relating to activities which have not been expressly authorized. All industrial activities are recorded in the appropriate register and can therefore be easily verified. Furthermore, under article 11 of the Act, the competent Ministry may at any time visit the enterprise, or send a monitoring body designated for that purpose, to verify that the provisions of the Act and safety measures are being complied with.

Any importer planning to buy certain industrial products which are considered hazardous to health, safety, public order or morality, or to purchase certain goods which may be used in fraudulent international or black market transactions, must first seek authorization from the Government.

One of the purposes of the Act is to enable the Principality to adapt to the standards governing industrial activity in neighbouring countries, and particularly to

European harmonization standards, since almost all industrial products which can be used in Andorra come from European Union countries and therefore comply with current European rules and standards. Consequently, implementation of those rules enables Andorra to comply with appropriate, effective and necessary physical protection measures.

Thus, the Government uses that Act to constantly monitor products entering Andorra.

Certain types of equipment destined for health establishments or centres and which might contain nuclear components, are strictly inspected and monitored as soon as they enter Andorran territory. Pursuant to the decree on health administration dated 18 December 1996, governing health and social-health centres, services and establishments, and its implementing regulations, an administrative authorization must be obtained for the opening, enlargement, modification, closure or relocation of any health establishment; such centres must be registered and records must be kept of any equipment that may contain nuclear materials.

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Since the only access to Andorra is by land, individuals arriving in Andorra would have already crossed entry and exit checkpoints in our neighbouring countries.

This does not relieve the Andorran border police of the duty to screen those individuals again to ensure, for example, that they have the necessary travel documents, such as a passport, and even checking to ensure that they have enough money for their stay in Andorra.

Nonetheless, since the 11 September 2001 attacks, the Andorran police, with awareness heightened by the events that shocked the whole world, have reinforced their border controls in order to prevent potential terrorists from entering Andorra.

Furthermore, the members of the police force have undergone training, in cooperation with the French and Spanish police, to improve their ability to detect falsified documents. In order to prevent the use of counterfeit passports, Andorra follows the rules of the International Civil Aviation Organization (ICAO) concerning official travel documents. These rules have been followed since 19 April 1995, even before Andorra's adherence to the Convention on International Civil Aviation on 26 January 2001. The Andorran police clears any doubts it may have with the operational intelligence units. Moreover, as a member of the International Criminal Police Organization (Interpol), the Andorran police force has access to various Interpol databases through specially trained personnel available 24 hours a day.

These security measures allow for strict surveillance and prevent the use of counterfeit documents. The measures also apply to immigration cards.

In matters concerning visas, Andorra does not have its own legislation. In December 2000, however, the Principality signed an agreement with France and Spain concerning the movement and stay of third-country nationals in Andorra, article 2 of which provides that "the Contracting Parties undertake to coordinate their legislation on the entry and stay of third-country nationals, taking into particular account, their respective interests and their international commitments. To

that end, the Contracting Parties shall regularly provide each other with the list of third States whose nationals are subject to a visa requirement for a visit or stay of less than 90 days".

Nonetheless, if a person whose name is on the list annexed to resolution 1737 (2006) enters Andorra in order to establish residence there, he or she must follow the procedure required for immigration purposes. Anyone who wishes to become a legal resident of Andorra must submit an application for immigration to the Immigration Service (Immigration Service Regulatory Decree of 16 October 2002, art. 2). However, pursuant to the Immigration Organization Act of 14 May 2002, which provides for a background check of the applicant, the application may be rejected; this may result in the denial of authorization to immigrate.

Accordingly, under the immigration act, the police authorities (art. 4 of the Immigration Service Decree) are competent to screen all the applications, investigate immigration cases with respect to security, public order and residence and ensure that the situation of the applicants is in accordance with the law.

The Immigration Organization Act of 14 May 2002 establishes certain personal criteria to be considered at the time of granting an immigration authorization: inter alia, article 42 provides that a person who submits an immigration application must not pose any danger to the security of the State or of persons or property, or to law and order, and article 47 provides for refusing authorization in cases where documents or information have been falsified or withheld. (The same criteria would apply to residents who wish to renew their immigration authorizations.)

When the Ministry of Foreign Affairs receives the Committee's Consolidated List of those subject to the sanctions described in Security Council resolution 1267 (1999) and successor resolutions, and the list established by resolution 1737 (2006), it transmits them to the Ministry of Justice and Internal Affairs for onward transmission to the police and immigration departments, respectively.

These lists are entered into the police database and may be consulted by police officers during any screening.

III

The Ministry of Foreign Affairs of Andorra has also transmitted the lists issued by the Security Council Committee established pursuant to resolution 1737 (2006) to the Money-Laundering Prevention Unit. Within the jurisdiction granted to it under article 53 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, the Unit issues official communications (included in a confidential annex) reproducing the lists of natural and legal persons involved in nuclear or ballistics missiles programmes, and later transmits them to entities under obligation to report. (Annex 6)

Article 51 of the Act obligates those responsible for combating money-laundering to monitor all transactions that, although not suspicious, take place under complex or unusual conditions and seem to have no economic justification or legal purpose, and especially transactions likely to involve money-laundering operations and those requiring special monitoring according to the non-restrictive official communications issued by the Money-Laundering Prevention Unit. If one of the

entities under an obligation to report under the Act has reason to suspect that a transaction may be linked to one of the entities or individuals listed in the official communications, that transaction is blocked by the Unit and the corresponding file is subsequently transmitted to the Public Prosecutor.

Although the list of names of individuals and entities referred to in the annex of the resolution has been transmitted to those with a reporting obligation, including financial institutions, to date the Unit has not received any suspicious transaction report against those individuals and entities.